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**LAW LIBRARY**  
**ARIZONA ATTORNEY GENERAL**

July 30, 1952  
Opin. No. 52-216

Mr. H. J. Wolfinger  
City Attorney  
City of Prescott  
Arizona

Dear Mr. Wolfinger:

This is in reply to your letter of July 14, 1952 wherein you ask for an interpretation of Section 16-1201 ACA 1939 regarding the levying of a tax on property within the city for library purposes. You say:

"Our city accountant has not known whether it would be valid to set up a budget for our library, based on the total assessed value of all property within Prescott, or whether the figure to be used should be the valuation of property from which tax revenues are derived.  
\* \* \*

It is well settled that municipal corporations possess no inherent power to levy assessments for local improvements. In order, therefore, to justify such assessments, it is necessary that authority for them be found in legislative acts. Birmingham vs Willis, 59 Southern 173. Also, our courts have told us how such laws shall be construed as follows:

"It is a generally recognized principal that a grant by the legislature of the taxing power to a municipal corporation is to be strictly construed."

Re Unger, 98 Pac. 999. Further, the court in the case of Winston vs Beeson, 47 SE 457; 65 L.R.A. 167 said:

"Municipal corporations can levy no taxes except such as are authorized by their charters or where the charters are silent such as are otherwise authorized by law."

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The case of Davis vs Litchfield, 33 NE 888; 21 L.R.A. 563, the Illinois court said:

"Moreover the statute making the grant must be strictly construed and the municipality must keep closely within its limit."

From these quotations we find the general law respecting the powers of a city to levy taxes for special purposes. The Arizona court in construing matters of this kind has used the term "taxable property" or property subject to taxation. Section 73-201 ACA 1939 provides that all property shall be subject to taxation except: and then lists a long list of property that is exempt, most of it automatically, but in the case of the property of widows or honorably discharged soldiers there is a requirement that the individual claiming exemption must comply with a procedure that is found in paragraph 73-301 to 73-306. From these last quoted sections, we learn that although property might be in the district, it is not necessarily subject to taxation. We will quote Section 16-1201 Supplement and then discuss it.

"Section 16-1201. Levy of tax for library purposes.--Any city or town may levy annually, in addition to all other taxes, a tax on the assessed value of all property in such city or town, for the purpose of establishing and maintaining therein free public libraries and reading rooms, purchasing books, journals and other publications, and erecting and maintaining such buildings as may be necessary therefor, not to exceed one (1) mill." (Emphasis ours)

You will note from the reading of Section 16-1201 that there is a limitation as to the amount that the taxpayer can be required to pay on his property for library purposes. It is our general understanding that all of this exempt property mentioned in paragraph 73-201 will not be required to pay taxes for library purposes. It is a common practice with all taxing agencies to deduct the exempt property from the total list of assessments before making any levies even when there is no limitation placed on them by statute.

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It appears to us that the city of Prescott in this instance would be required to place a rate not to exceed one mill, on the \$100.00 valuation for library purposes on the taxable property in the city and then exempt property would not be required to pay. In a practical way, then, it is our opinion that the valuation of the exempt property would be deducted from the total assessed valuation before the levy was made.

Very truly yours,

FRED O. WILSON  
Attorney General

CHAS. ROGERS  
Assistant Attorney General

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